



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

February 28, 2008

The Honorable John Christian
Mayor, City of Leesburg
501 West Meadow Street
Leesburg, Florida 34749

Dear Mayor Christian:

The Department of Community Affairs has completed its review of the comprehensive plan amendments adopted by Ordinance Numbers 06-136 through 06-146 and 06-148 through 06-150 (DCA reference No. 06-1) by the City of Leesburg, on December 18, 2006. The Department has determined that ordinances 06-139, 06-140, 06-142, 06-144, 06-145, 06-146, 06-148, and 06-150 meet the requirements of Chapter 163, Part II, Florida Statutes (F.S.), for compliance. The Department is therefore issuing a Notice of Intent to find those ordinances "in compliance." The Department has determined, however, that ordinances 06-136, 06-137, 06-138, 06-141, 06-143, and 06-149 to the Future Land Use Map do not meet the requirements of Chapter 163, Part II, F.S., for compliance. The Department is therefore issuing a Notice of Intent to find those ordinances "not in compliance." The Notice of Intent has been sent to the Lake Sentinel for publication on February 29, 2008.

Please note that a copy of the adopted City of Leesburg comprehensive plan amendments and the Notice of Intent and Statement of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the City of Leesburg City Hall, 501 West Meadow Street, Leesburg, Florida 34749. Please be advised that Section 163.3184(8)(c)2., F.S., requires a local government that has an Internet site to post a copy of the Department's Notice of Intent on the site within 5 days after receipt of the mailed copy of the agency's Notice of Intent.

The Notice of Intent and the Statement of Intent will be forwarded to the Division of Administrative Hearings for the scheduling of an administrative hearing pursuant to Section 120.57, Florida Statutes. The hearing will be scheduled to commence within the next ninety (90) days. The issues that will be the subject of the hearing are as set forth in the attached Statement of Intent, and include the lack of demonstrated water resource and facilities planning, demonstrated need to support the future land use map amendments, and internal consistency with the City of Leesburg Comprehensive Plan. Department staff is available to meet with you and your staff at your convenience for the purpose

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CRITICAL STATE CONCERN FIELD OFFICE
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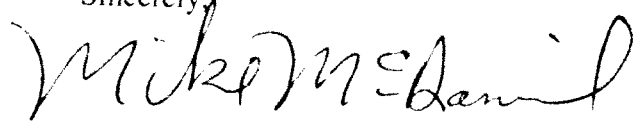
COMMUNITY PLANNING

HOUSING & COMMUNITY DEVELOPMENT

of discussing the compliance finding and to discuss resolving this matter. It is imperative that settlement discussions occur promptly.

If you have any questions, please contact Julie Evans, Senior Planner, at (850) 922-1816.

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is fluid and cursive, with the first name "Mike" and last name "McDaniel" clearly legible.

Mike McDaniel
Chief, Office of Comprehensive Planning

MM/je

Enclosure: Notice of Intent
Statement of Intent

cc: Mr. Bill Wiley, AICP, Director, Department of Planning and Zoning, City of Leesburg
Mr. Phil Laurien, Executive Director, East Central Florida Regional Planning Council

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
NOTICE OF INTENT TO FIND THE
CITY OF LEESBURG
AMENDMENTS ADOPTED BY
ORDINANCE NOS. 06-136, 06-137, 06-138, 06-139,
06-141, 06-143, AND 06-149
NOT IN COMPLIANCE,
AND THE REMAINING AMENDMENTS ADOPTED PURSUANT TO
ORDINANCE NOS. 06-140, 06-142, 06-144, 06-145, 06-146, 06-148 AND 06-150
ON DECEMBER 18, 2006
IN COMPLIANCE
DOCKET NO. 06-1-NOI-4301-(A)-(I)-(N)

The Department gives notice of its intent to find the State of Florida Department of Community Affairs Notice of Intent to find the City of Leesburg amendments adopted by Ordinances 06-136, 06-137, 06-138, 06-139, 06-141, 06-143 and 06-149 on December 18, 2006, Not In Compliance, and the remaining amendments adopted pursuant to Ordinance Nos. 06-140, 06-142, 06-144, 06-145, 06-146, 06-148 and 06-150 on December 18, 2006, In Compliance, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

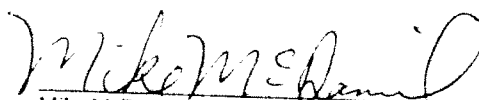
The adopted City of Leesburg Comprehensive Plan Amendments, the Department's Objections, Recommendations, and Comments Report (if any), and the Department's Statement of Intent to find the Comprehensive Plan Amendments Not In Compliance will be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the City of Leesburg, Community Development Department, Planning and Zoning Division, 1300 Citizens Boulevard, Suite 160, Leesburg, Florida 34748.

Any affected person, as defined in Section 163.3184, F.S., has a right to petition for an administrative hearing to challenge the proposed agency determination that the above referenced amendments to the City of Leesburg Comprehensive Plan are In Compliance, as defined in Subsection 163.3184(1), F.S. The petition must be filed within twenty-one (21) days after publication of this notice; a copy must be mailed or delivered to the local government and must include all of the information and contents described in Uniform Rule 28-106.201, F.A.C. The petition must be filed with the Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100. Failure to timely file a petition shall constitute a waiver of any right to request an administrative proceeding as a petitioner under Sections 120.569 and 120.57, F.S. If a petition is filed, the purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Department. If no petition is filed, this Notice of Intent shall become final agency action.

This Notice of Intent and the Statement of Intent for those amendment(s) found Not In Compliance will be forwarded by petition to the Division of Administrative Hearings (DOAH) of the Department of Management Services for the scheduling of an Administrative Hearing pursuant to Sections 120.569 and 120.57, F.S. The purpose of the administrative hearing will be to present evidence and testimony on the noncompliance issues alleged by the Department in its Objections, Recommendations, and Comments Report and Statement of Intent in order to secure a recommended order for forwarding to the Administration Commission.

Affected persons may petition to intervene in either proceeding referenced above. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. Pursuant to Section 163.3184(10), F.S., no new issues may be alleged as a reason to find a plan amendment not in compliance in a petition to intervene filed more than twenty one (21) days after publication of this notice unless the petitioner establishes good cause for not alleging such new issues within the twenty one (21) day time period. The petition for intervention shall be filed at DOAH, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, and a copy mailed or delivered to the local government and the Department. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing pursuant to Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to Subsection 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.



Mike McDaniel, Chief
Office of Comprehensive Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

IN RE: CITY OF LEESBURG)
COMPREHENSIVE PLAN AMENDMENT)
06-1; AMENDING THE FUTURE LAND) Docket No. 06-1-NOI-3509-(A)-(N)
USE MAP)

STATEMENT OF INTENT TO FIND
COMPREHENSIVE PLAN AMENDMENT
NOT IN COMPLIANCE

The Florida Department of Community Affairs, pursuant to Section 163.3184(10), Florida Statutes, and Rule 9J-11.012(6), Florida Administrative Code, hereby issues this Statement of Intent to find the comprehensive plan amendments adopted by the City of Leesburg in Ordinance Numbers 06-136, 06-137, 06-138, 06-141, 06-143, and 06-149 adopted on December 18, 2006, not "in compliance" based upon the Objections, Recommendations, and Comments report issued by the Department on February 22, 2006, and based upon the changes made by the City to the amendment as adopted. The Department finds the Amendments not "in compliance," as defined in Section 163.3184(1)(b), Florida Statutes, for the following reasons:

I. INCONSISTENCY WITH CHAPTER 163, PART II, FLORIDA STATUTES, AND
RULE 9J-5, FLORIDA ADMINISTRATIVE CODE.

Inconsistent Provisions. The future land use map amendments are inconsistent with Chapter 163, Part II, F.S. and Rule 9J-5, F.A.C. for the following reasons:

I. Water Resource Planning. The Future Land Use Map (FLUM) amendments adopted through Ordinance Numbers 06-136, 06-137, 06-138, 06-141, 06-143, and 06-149 increase development potential for the City of Leesburg without adequately

demonstrating the availability of potable water resources to serve the proposed changes. The potable water data and analysis do not address the availability and adequacy of water sources and facilities to meet the demand of these amendments as well as existing and committed demands. State law requires each local government to address in its comprehensive plan the water supply sources and facilities necessary to meet the projected water use demand for the established planning period. The overall increase in demand for water supply from the Leesburg 06-1 and 07-1 amendments cumulatively results in a potable water supply deficit. The FLUM amendments are also internally inconsistent with the following objectives and policies of the City's Comprehensive Plan: Potable Water Policy 1.1.7, Objective 1.2 and Policies 1.2.5 through 1.2.13; Future Land Use Policy 1.5.1, Objective 1.12, Policy 1.12.1, Objective 1.9 and Policies 1.9.1 through 1.9.4; and Capital Improvements Policy 1.6.2.

Therefore, for all of the reasons set forth above, the amendments are inconsistent with the following provisions: Sections 163.3177(2), 163.3177(4)(a), 163.3177(6)(a) and (c), 163.3177(8), and 163.3177(10)(e), F.S.; and Rules 9J-5.005(2)(a) and (c), 9J-5.005(5), 9J-5.0055(1), and 9J-5.006(2)(a), F.A.C.

Recommended remedial actions: These inconsistencies may be remedied by taking one of the following actions: (1) demonstrate through data and analysis, in coordination with the Water Management District, that the City has adequate potable water sources and facilities to accommodate the additional cumulative demand from these amendments and the projected demand from existing approvals for a minimum ten-year planning period, and where necessary, reflect required public facility improvements in the adopted financially feasible capital improvements schedule; (2) if the data and

analysis does not demonstrate the availability of adequate water sources, rescind the adopted amendments.

2. Need for Additional Residential Development. FLUM amendments numbers 06-137, 06-138, 06-139, and 06-141 are not appropriately supported by data and analysis demonstrating that the additional residential development potential allowed by the FLUM amendments is needed to accommodate the City's projected population. The analysis is not based on an analysis of vacant land and it is not based on the maximum development potential allowed by the FLUM categories. The FLUM amendments are also internally inconsistent with the following objectives and policies of the City's Comprehensive Plan: Future Land Use Objective 1.4 and Policies 1.4.1 through 1.4.9.

Therefore, for all of the reasons set forth above, the amendment is inconsistent with the following provisions: Sections 163.3177 (2), 163.3177 (6)(a), 163.3177 (8), and 163.3177(10)(e), Florida Statutes and Rules 9J-5.005(2) and (5), 9J-5.006(1)(g), F.A.C.

B. Recommended remedial actions: These inconsistencies may be remedied by taking the following actions:

(1) Revise the amendments to include a cumulative land use needs analysis demonstrating there is a need for the residential development allowed by the FLUM amendments, including the density increases from the adopted 07-1 round of amendments, in order to accommodate the City's Comprehensive Plan projected population growth within the planning timeframe of the FLUM. The analysis should

include an assessment of currently designated residential property that is vacant. The analysis should be based on the maximum development potential allowed by the FLUM categories. The amendments must be consistent with and supported by the data and analysis. (2) If the analysis does not demonstrate there is a need for the residential development allowed by the FLUM amendments, including the density increases from the adopted 07-1 round of amendments, rescind the amendments.

II. INCONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

A. Inconsistent provisions. The amendments are inconsistent with the State Comprehensive Plan goals and policies set forth in Section 187.201, F.S., including the following provisions:

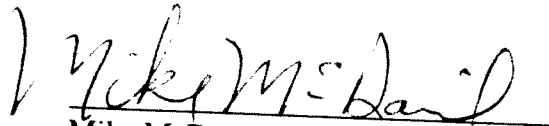
1. **Land Use.** The amendments are inconsistent with the Goal set forth in Section 187.201(15)(a), F.S., and the Policies set forth in Section 187.201(15)(b)1 and 6, F.S..
2. **Water Resources.** The amendments are inconsistent with the Goal set forth in Section 187.201(7)(a), F.S., and the Policies set forth in Section 187.201(7)(b)5, 9, 10 and 11, F.S.
3. **Public Facilities.** The amendments are inconsistent with the Goal set forth in Section 187.201(17)(a), F.S., and the Policies set forth in Sections 187.201(17)(b)7 and 10, F.S.
4. **Plan Implementation.** The amendments are inconsistent with the Goal set forth in Section 187.201(25)(a), F.S., and the Policies set forth in Section 187.201(25)(b)7, F.S.

B. Recommended remedial action. These inconsistencies may be remedied by revising the amendments as described above in Section I.

CONCLUSIONS

1. The Plan Amendments are not consistent with the State Comprehensive Plan, Chapter 187, F.S.;
2. The Plan Amendments are not consistent with Chapter 163, Part II, F.S.;
3. The Plan Amendments are not consistent with Chapter 9J-5, F.A.C.;
4. The Plan Amendments are not "in compliance" as defined by Section 163.3184(1)(b), F.S.; and
6. In order to bring the Plan Amendments into compliance, the City must complete the remedial actions described above or adopt other remedial actions which eliminate the inconsistencies.

Executed this 28th day of February, 2008, in Tallahassee, Florida, by



Mike McDaniel
Chief, Office of Community
Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100